approval" as establishing presumption if it determines that said approval is based upon an evaluation by the Agency of Natural Resources of site characteristics and a specific waste disposal system plan. (Amended, effective May 4, 1990.)

(I) Municipal presumptions. The board and the district commissions shall accept determinations issued by a development review board under the provisions of § 4449 of Title 24 with respect to municipal impacts under criteria 6, educational services; 7, municipal services; and 10, conformance with the municipal plan (10 V.S.A. § 6086(a)). These decisions must include findings of fact and conclusions of law demonstrating compliance or non-compliance with the relevant criteria of Act 250. Such determinations of a development review board, either positive or negative, under the provisions of § 4449 of Title 24, shall create a rebuttable presumption only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. A development review board decision involving local Act 250 review of municipal impacts must include a notice that it constitutes a rebuttable presumption under the relevant criteria and that the presumption may be challenged in proceedings under 10 V.S.A. chapter 151. (Added, effective January 2, 1996.) **See 10 V.S.A. § 6086(d).**

Rule 20. Information Required

(A) Supplementary information. The board or district commission may require any applicant to submit relevant supplementary

data for use in resolving issues raised in a proceeding, and in determining whether or not to issue a permit. When necessary to an adequate evaluation of an application under the criteria set forth in 10 V.S.A. § 6086(a)(1) through (a)(10), the district commission or board may require supplementary data concerning the current or projected use of property owned by the applicant or others adjoining the project site.

(B) Investigation.

(1) The board or district commission may conduct such investigations, examinations, tests and site evaluations as it deems necessary to verify information contained in the application or otherwise presented in a proceeding.

(2) The board or district commission may make reasonable inquiry as it finds necessary to make findings and conclusions as required; in this event the board or district commission may recess the proceedings or require such investigations, tests, certifications, witnesses, or other assistance as it deems necessary to evaluate the effects of the project under the criteria in question or any other issues before it. (Amended, effective January 2, 1996.)

Rule 21. Order of Evidence - Partial Review

(A) To avoid unnecessary or unreasonable costs, an applicant, upon notice and approval of a district commission or the board and upon filing an application or an appeal to the board, may offer evidence in support of or have the project

reviewed under any of the criteria or sub-criteria under the Act in any sequence approved by the district commission or the board. However, such procedure shall not be permitted by the board or a district commission if it works a substantial hardship or inequity upon other parties to the proceedings, will unduly delay final action on the application, or make comprehensive review of an application under applicable criteria impractical or unduly difficult. An applicant seeking to use this procedure shall notify the board or district commission and all parties entitled to receive notice, of his or her petition and the sequence and timing under which he or she intends to offer evidence or submit the project for review under specified criteria or sub-criteria.

(B) A district commission or the board, on its own motion, may consider whether to review any of the criteria or sub-criteria before proceeding to the review of the remaining criteria. (Added, effective January 2, 1996.)

(C) In any proceeding under sections (A) or (B) of this rule, the district commission or the board, shall, within 20 days of the completion of deliberations on the criteria that are the subject of the proceeding, either issue its findings and decision thereon, or proceed to a consideration of the remaining criteria. The decision to issue a decision or proceed to the remaining criteria shall be in the sole discretion of the district commission or board. If the district commission first issues a partial decision under this rule, the applicant or a party may appeal that decision within 30 days under § 6089 of Title 10 and

Rule 40 of these rules, or may appeal after the final decision on the complete application. (Amended, effective January 2, 1996.)

(D) If the district commission or the board decides to issue a partial decision and insofar as the applicant sustains his or her burden of proof or a party opposing the application fails to sustain its burden of proof as provided for in the Act under the applicable criteria, the board or district commission shall make affirmative findings of fact and conclusions of law including any conditions or limitations relevant thereto to be imposed by the district commission or board. If the district commission or board is unable to make such findings by reasons of inadequate evidence or information, it shall inform the applicant and all parties. Such affirmative findings, conclusions of law and any conditions or limitations shall remain in effect, pending issuance or denial of a permit under the Act, for a reasonable and proper term as determined by the district commission or board. For the purposes of this section, any findings of fact or conclusions of law made by a district commission based upon the criteria of § 6086(a) shall be a final decision and subject to appeal to the board as provided for under the law; provided, however, the applicant, and any other party may elect to reserve an appeal from findings and conclusions under these criteria until after final action on the application has been made by the district commission. (Amended, effective January 2, 1996.)

See 10 V.S.A. § 6086(b).

Rule 21.

The findings of fact and conclusions of law made under the terms of this section shall be binding upon all parties during the period specified by the district commission or board unless it is clearly shown that there was misrepresentation or fraud or that the facts relevant to the matter have so materially changed as to render the findings or conclusions clearly erroneous, contrary to the purposes of the Act and without basis in fact.

(E) A permit shall not be granted under this rule until the applicant has fully complied with all criteria and all affirmative findings have been made by the district commission or board as required by the Act. If a master plan has been presented and reviewed for an industrial park or other large project, the district commission or the board may issue a master permit to the extent that the district commission or the board has made affirmative findings and has imposed conditions as required by 10 V.S.A. Chapter 151. Subsequent phases may be reviewed and approved as amendments to the master permit in accordance with board rules and statutory provisions. (Amended, effective May 4, 1990 and January 2, 1996.)

(F) The procedures authorized under this section are intended to minimize costs and inconvenience to applicants and shall be applied liberally by the board or district commission for that purpose consistent with the right of other parties and the requirements of law and any pertinent regulations. (Amended, effective July 15, 1974 and February 1, 1978).

ARTICLE III. LAND USE PERMITS

Rule 30. Approval or Denial of Applications

The board or district commission shall, within 20 days of the completion of deliberations on an application, issue a decision approving, conditionally approving, or denying the application. The date of completion for deliberations shall be governed by Rule 18(F) of these rules. The decision on the application shall contain findings of fact and conclusions of law specifying the reasons for the decisions reached on all issues for which sufficient evidence was offered. If the application is approved, the decision shall also contain a land use permit in the name of the applicant, enabling the applicant to proceed with the development or subdivision in accordance with any stated terms and conditions. (Amended, effective May 4, 1990 and January 2, 1996.)

Rule 31. Reconsideration of Decisions

(A) Motions to alter decisions. A party may file within 30 days from the date of a decision of the board or district commission one and only one motion to alter with respect to the decision. However, no party may file a motion to alter a decision concerning or resulting from a motion to alter. (Amended, effective May 4, 1990 and January 2, 1996.)

(1) All requested alterations must be based on a proposed reconsideration of the existing record. New arguments are not allowed, with the exception of arguments in response to permit

conditions or allegedly improper use of procedures, provided that the party seeking the alteration reasonably could not have known of the conditions or procedures prior to decision. New evidence may not be submitted unless the board or district commission, acting on a motion to alter, determines that it will accept new evidence. (Added, effective January 2, 1996.)

(2) A motion to alter should number each requested alteration separately. The motion may be accompanied by a supporting memorandum of law which contains numbered sections corresponding to the motion. The supporting memorandum should state why each requested alteration is appropriate and the location in the existing record of the supporting evidence. Any reply memorandum of law should also contain numbered sections corresponding to the motion. Additional requirements concerning motions and memoranda are set out in Rule 12 of these rules. (Added, effective January 2, 1996.)

(3) The board or district commission shall act upon motions to alter promptly. The running of any applicable time in which to appeal to the board or supreme court shall be terminated by a timely motion filed under this rule. The full time for appeal shall commence to run and is to be computed from issuance of a decision on said motion. It is entirely within the discretion of the board or district commission whether or not to hold a hearing on any motion. (Amended, effective May 4, 1990)

(4) The board or district commission may on its own motion, within 30 days from the date of a decision, issue an altered

decision or permit. Alterations by board or district commission motion shall be limited to instances of manifest error, mistakes, and typographical errors and omissions. (Added, effective May 4, 1990.)

(B) Application for reconsideration of permit denial.

(1) Procedure. An applicant for a permit which has been denied by the board or district commission may, within six months of the date of that decision, apply to the district commission for reconsideration of the application.

The applicant for reconsideration shall certify by affidavit in the application that notice and copies of the application have been forwarded to all parties of record, and that the deficiencies in the application which were the basis of the permit denial have been corrected. The district commission shall hold a new hearing upon 25 days notice to the parties. The hearing shall be held within 40 days of receipt of the request for reconsideration which has been deemed complete. (Amended, effective May 4, 1990 and January 2, 1996.)

(2) Scope of review. The district commission may, but need not necessarily, limit its scope of review to those aspects of the project or application which have been modified to correct deficiencies noted in the prior permit decision. The findings of the board or district commission in the original permit proceeding shall be entitled to a presumption of validity in the reconsideration proceeding, insofar as those findings are not affected by proposed modifications in the project. However,

those presumptions may be rebutted by the district commission or by any party upon a showing that the circumstances of the application have changed, or upon a review of evidence not previously presented.

Rule 32. Duration and Conditions of Permits

(A) Permit conditions. The board or district commission may attach such conditions to permits as are appropriate to ensure that the development is completed as approved. This may include the posting of a bond or the establishment of an escrow account requiring the board or district commission to certify that permit conditions have been complied with prior to release of the bond or discharge of the escrow account in part or in whole. Permittees, and their successors and assigns shall comply with all terms and conditions stated in land use permits.

All conditions relating to a permit shall be clearly and specifically stated in the permit. Conditions may pertain to improvement of land and to proper operation and maintenance of any facility during the terms of the permit relating to a development or subdivision.

The board or a district commission may, as it finds necessary and appropriate, require a permittee to file affidavits of compliance with respect to specific conditions of a permit at reasonable intervals. Failure to submit such affidavits shall be cause for revocation of the permit by the board.

When construction of a project will be pursued in stages

involving more than one construction season, a commission or the board may require a permittee to file an annual certificate stating what portion of an approved project has been completed to date.

(B) Duration of permits. Permits issued under the Act shall be for land development or subdivision and the resulting land use. All permits shall run with the land. Permits for extraction of mineral resources, solid waste disposal facilities, and logging above the elevation of 2500 feet shall contain specific dates for completion of the project and for expiration of the land use permit. Permits issued for all other developments and subdivisions shall contain dates for completion of the project but shall not contain a date for expiration of the permit. Effective June 30, 1994, permits issued for all other developments and subdivisions shall be for an indefinite term, as long as there is substantial compliance with each condition of the permit. Expiration dates contained in permits (involving developments and subdivisions that are not for extraction of mineral resources, operation of solid waste disposal facilities and logging above the elevation of 2500 feet) are extended for an indefinite term, as long as there is substantial compliance with each condition of the permit. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6090(b)(1) and (2).**

(1) Project completion date. In determining the dates for phased or full completion of construction or subdivision, the board or district commission shall consider the impacts of

project development under the criteria of the Act, and shall give due regard to the economic considerations attending the proposed development or subdivision (such as the type and terms of financing, and the cost of development or subdivision) and the period of time over which the development or subdivision will take place. If a project, or portion of a project, is not completed by the specified date, such project or portion may be reviewed for compliance with 10 V.S.A. § 6086. In any such review, due consideration shall be given to fairness to the parties involved, competing land use demands for available infrastructure, and cumulative impacts on the resources involved. If completion has been delayed by litigation, proceedings to secure other permits, proceedings to secure title through foreclosure, or because of market conditions, the district commission or the board shall provide that the completion dates be extended for a reasonable period of time during which construction can be completed. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6090(b)(1).**

(2) Permit expiration date. When an expiration date is to be issued, the duration of a permit shall be for a specified period designated as a reasonable projection of time during the land will remain suitable for the use as contemplated in the application and shall at a minimum extend through that time period over which the permit holder or successors in interest will be responsible and accountable for compliance with time-specific permit conditions, including proper and timely

completion of the project. During its term, a permit shall run with the land. (Amended, effective January 2, 1996.)

Rule 33 - Recording of Permits

(A) Recorded permits. Permits shall be recorded at the expense of the applicant in the land records of any municipality in which a development or subdivision is to be located unless the board or a district commission determines in specific instances that such action is not warranted. Any official action of the board or a district commission modifying the terms or conditions of a recorded permit shall also be recorded. The State of Vermont shall be shown as grantee and the original permittee and landowner as grantor. A commission or the board may retain a permit after issuance in order to assure payment of recording expenses or payment of fees under Rule 11. (Amended, effective January 2, 1996.)

(B) Unrecorded permits. The recording of permits is intended to assist purchasers and investors in property by providing actual notice of the terms and conditions of existing land use and development permits. The board and district commissions will, to the extent that it is feasible, contact holders of presently unrecorded permits and seek to have them recorded by voluntary agreement. In addition, any unrecorded permit shall be recorded upon issuance of any amendment, including an amendment required to renew an expired permit or transfer an unrecorded permit to a new permit holder.

(C) Permit transfers.

(1) A purchasing landowner will assume the rights and obligations of a recorded permit without the necessity of an amendment transferring the permit. The board or district commission may, however, by explicit permit condition make an exception to this rule upon a finding that the identity of a permit holder is a critical factor in the satisfaction of the terms and conditions of the permit.

(2) No transfer of an unrecorded development permit shall be effective unless authorized by the board or district commission through an amendment to the permit; rights to an unrecorded subdivision permit may be conveyed or transferred, as authorized in the permit, however, persons acquiring such rights are required to comply with the permit.

(3) Notwithstanding the provisions of paragraphs (C)(1) and (2), above, all permits shall run with the land, and shall be enforceable against the permit holder and all successors in interest, whether or not the permit has been recorded in the land records.

Rule 34. Permit Amendments

(A) Amendments required. An amendment shall be required for any material or substantial change in a permitted project, or any administrative change in the terms and conditions of a land use permit. Applications for amendments shall be on forms provided by the board, and shall be filed with the district commission

having jurisdiction over the project. Upon request, the district coordinator will expeditiously review a proposed change and determine whether it would constitute a substantial change to the project, or whether it involves only material or administrative changes that may be subject to simplified review procedures.

Continuing jurisdiction over all development and subdivision permits is vested in the district commissions unless the board, in acting on an appeal, has specifically reserved the right to maintain jurisdiction over a development or subdivision in part or in its entirety.

(B) Substantial changes to a permitted project or permit. If a proposed amendment involves substantial changes to a permitted project or permit, it shall be considered as a new application subject to the application, notice and hearing provisions of §§ 6083, 6084 and 6085 and the related provisions of these Rules.

(C) Material changes to a permitted project or permit. If, in the judgment of the district coordinator, a proposed amendment involves material, but not substantial changes to a permitted project or permit, it shall be subject to the following simplified review procedures:

(1) Applications. Minor amendment applications shall conform to the requirements of Rule 10, sections (A) through (D). The applicant shall file with the appropriate district commission an original and five copies of the application, along with the fee prescribed by Rule 11.

(2) Review procedures. Applications processed under this section shall be subject to the distribution, posting and publication requirements of 10 V.S.A. Section 6084 and sections (E) through (G) of Rule 10. Such applications shall be processed in the same manner as minor applications under Rule 51(B). (Amended, effective January 2, 1996.)

(3) Consent agreements. The applicant may further expedite these procedures by submitting to the district commission a written consent agreement, signed by all persons entitled to receive the Proposed Material Amendment, consenting to approval of the proposed change, either conditionally or without conditions. For this purpose, the consent of the State Interagency Act 250 Review Committee shall signify approval by all state agencies which were not otherwise parties to the underlying permit. If the district commission finds that a consent agreement satisfies the criteria of the Act, it may approve the proposal and issue the amendment without further proceedings.

(4) Effective date. If no hearing is requested or ordered on a material change, the proposed amendment will become effective when all necessary certifications or other permits specified in the Findings of Fact are obtained, and the amendment is recorded in the land records of the municipality.

(D) Administrative amendments to a permit. A district commission may authorize a district coordinator to amend a permit without notice or hearing when an amendment is necessary solely

for record-keeping purposes and raises no likelihood of impacts under the criteria of the Act. Applications processed under this section shall be exempt from the distribution, posting and publication requirements of 10 V.S.A. § 6084 and sections (E) through (G) of Rule 10. In particular, administrative amendments are authorized to transfer a previously unrecorded permit to a new landowner, or to incorporate a revision in a certification of compliance when such revisions do not have any impact on the criteria of the Act. (Amended, effective January 2, 1996.)

Rule 35. Renewal of Permits

(A) Renewal required. For any permit which expires under Rule 32(B) of these rules, renewal shall be required for any extension of the permitted use beyond the expiration date. (Amended, effective January 2, 1996.)

(B) Renewal applications. Applications for permit renewals shall be on forms provided by the board, and shall be filed with the district commission having jurisdiction over the project. The district commission will expeditiously review a proposed renewal and determine whether it would involve significant impacts under the criteria and upon the values sought to be preserved by the Act. Factors taken into consideration will include: whether the project has been constructed, operated, and maintained in conformance with the terms and conditions of the permit; whether the extension also involves other amendments to the project; whether the project involves continuing operations

that are likely to have demonstrable impacts under the criteria of the Act beyond those considered during previous review of the project; and whether the project is one for which a strictly limited term of operation was anticipated in the original permit. (Amended, effective January 2, 1996.)

Rule 37. Certification of Compliance

Any person holding a permit may at any time petition the board or a district commission issuing the permit for a certification of compliance with the terms and conditions that may be imposed by the permit. Under usual circumstances, a person may petition for a certification upon completion of the construction of a development or division of land that completion or division has been accomplished in compliance with the permit.

Thereafter, if the permit establishes terms and conditions regarding operation and/or maintenance of a development or subdivision, the person holding the permit may from time to time petition the board or district commission for certification of compliance.

A certification shall be a matter of public record and shall estop any claim that the construction of a development or division of land or the operation and/or maintenance thereof do not comply with the provisions of the permit unless fraud or misrepresentation is shown. The notice and hearing requirements of the act shall be complied with when a petition for certificate of compliance is filed with the board or a district commission. (Amended, effective February 1, 1988.)

Rule 38. Revocation and Abandonment of Permits

(A) Revocation for violations. A petition for revocation of a permit under 10 V.S.A. § 6090(c) may be made to the board by any person who was party to the application, by any adjoining property owner whose property interests are directly affected by an alleged violation, by a municipal or regional planning commission, or any municipal or state agency having an interest which is affected by the development or subdivision. The petition shall consist of an original and 10 copies of the petition which shall include a statement of reasons why the petitioner believes that grounds for revocation exist, a preliminary list of witnesses and the land use permit to which it applies. The board may also consider permit revocation on its own motion. (Amended, effective January 2, 1996.)

(1) Procedure. The board will treat a petition for revocation as an initial pleading in a contested case, in accordance with the notice and hearing procedures of Rule 40 of these rules. The petition shall be served on all parties to the original permit proceeding. No fee is required. (Amended, effective January 2, 1996.)

(2) Grounds for revocation. The board may after hearing revoke a permit if it finds that: (a) The applicant or representative willfully or with gross negligence submitted inaccurate, erroneous, or materially incomplete information in connection with the permit application, and that accurate and complete information may have caused the district commission or

board to deny the application or to require additional or different conditions on the permit; or (b) the applicant or successor in interest has violated the terms of the permit or any permit condition, the approved terms of the application, or the rules of the board; or (c) the applicant or successor in interest has failed to file an affidavit of compliance with respect to specific conditions of a permit, contrary to a request by the board or district commission.

(3) Opportunity to correct a violation. Unless there is a clear threat of irreparable harm to public health, safety, or general welfare or to the environment by reason of the violation, the board shall give the permit holder reasonable opportunity to correct any violation prior to any order of revocation becoming final. For this purpose, the board shall clearly state in writing the nature of the violation and the steps necessary for its correction or elimination. These terms may include conditions, including the posting of a bond or payments to an escrow account, to assure compliance with the board's order. In the case where a permit holder is responsible for repeated violations, the board may revoke a permit without offering an opportunity to correct a violation.

(4) Judicial action not precluded. Nothing in this rule shall be construed to preclude the board or any other agency of the state from instituting such other action, criminal or civil, as may be permitted by law against the permit holder for any violation.

(B) Abandonment by non-use. Non-use of a permit for a period of three years following the date of issuance shall constitute an abandonment of the development or subdivision and the associated land use permit. For the permit to be "used", construction must have commenced and substantial progress toward completion must have occurred within the three year period, unless construction is delayed by litigation or proceedings to secure other permits or to secure title through foreclosure. In the initial proceeding or in subsequent proceedings, the district commission or the board may provide for a period longer than three years in which a permit must be used. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6091(b).**

(1) Initiation of proceeding. A petition to declare a permit void for non-use may be filed by any person who was a party to the application proceedings, by a local or regional planning commission, or by any municipality or state agency having an interest potentially affected by the development or subdivision. The board or a district commission having jurisdiction over a permit may also, on its own motion, initiate a review of its use.

(2) Procedure. Determinations of use or abandonment will be made by the board or the district commission retaining jurisdiction over the permit. The proceeding will be treated as a contested case. Petitions will be heard and disposed of promptly. The board or district commission shall provide at least 20 days' notice of the proceeding to the permit holder, to

all persons who were parties to the permit proceedings, and to the governmental statutory parties listed in Rule 14(A). If the permit holder does not request the right to be heard, the board or district commission may declare the permit void without a hearing.

Rule 40. Appeals

(A) Any party aggrieved by an adverse determination by a district commission may appeal to the board and will be given a de novo hearing on findings, conclusions and permit conditions issued by the district commission.

An appeal shall be filed with the board within 30 days after the date of the decision of the commission. The appeal shall consist of the original and 10 copies of the appeal and of the decision of the commission, and a statement of the reasons why the appellant believes the commission was in error, the issues to be addressed in the appeal, a summary of the evidence that will be presented, and a preliminary list of witnesses who will testify on behalf of the appellant. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is grounds only for such action as the Board deems appropriate, which may include dismissal of the appeal.

A filing fee in the amount established in Rule 11 of these rules payable to the State of Vermont shall accompany the appeal. (Amended, effective May 4, 1990 and January 2, 1996.)

See 10 V.S.A. § 6089(a).

(B) The appellant shall send a copy of the notice of appeal by U.S. mail to all parties of right and all parties of record to the commission proceedings and shall file a certification of service with the board at the time it files its appeal. (Amended, effective May 4, 1990.)

(C) The board shall provide notice to parties as required under 10 V.S.A. § 6089(a) by publication of notice of appeal not less than 10 days before the hearing date.

(D) If any party of right or other parties of record to an application wishes to appeal findings of the district commission relating to criteria or issues other than those raised by the appellant, the party must file a cross-appeal with the board within 14 days of the date the notice of appeal was mailed to the party by the appellant, or before the expiration of the 30 days allowed for filing appeals, whichever is later. Such appeal shall comply with the requirements of paragraphs (A) and (B) of this rule, excepting, however, the filing of copies of the decision of the commission with the board is not required. (Added, effective May 4, 1990.)

(E) The scope of the appeal hearing shall be limited to the errors and issues assigned by the appellant and any cross-appellant unless substantial inequity or injustice would result from such limitation.

(F) Any party to the application may enter its appearance in the appeal before the board within 14 days after notice was mailed to the party by the appellant or expiration of the 30 days

allowed for filing appeals, whichever is latest. (Amended, effective May 4, 1990 and January 2, 1996.)

Rule 41. Administrative Hearing Officer or Panel - Environmental Board

(A) Unless otherwise directed by the board, the chair may appoint a hearing officer or a subcommittee of the board to hear any appeal or petition before the board, or any portion thereof. A subcommittee of the board shall be known as a "hearing panel." (Amended, effective January 2, 1996.)

(B) Parties shall be given due notice of the chair's intention to appoint a hearing officer or panel and shall have reasonable opportunity to object to the appointment within a stated time. If a party raises an objection, the board shall review the chair's decision to determine whether, by reason of complexity, necessity to judge the credibility of witnesses, or other appropriate reasons, the matter should be heard by the full board. The decision of the board shall be final. The hearing officer or panel shall be a member or members of the board including alternates. If it appears that any issue should be heard by the full board by reason of complexity, necessity to judge the credibility of witnesses, or other appropriate reasons, the hearing officer or panel may decline to hear that issue, in which event the matter shall be referred for hearing to the board.

(C) Rules governing proceedings before the hearing officer or panel shall be the same as those which pertain to hearings before

the board. The hearing officer or panel shall hold such prehearing conferences and issue such notices and orders as may be necessary for the orderly and expeditious conduct of hearings.

(D) The hearing officer or panel shall prepare and transmit to the board and all parties of record recommended findings of fact and conclusions of law. A record of proceedings shall be prepared and made available to all board members for their review. The board's final findings and conclusions shall be based on the record. Prior to final decision by the board, parties shall be given an opportunity to request oral argument and to present a memorandum objecting to the recommendations of the panel or officer. Any such request for oral argument or memorandum must be filed within 15 days from the date of service for the proposed findings and conclusions, unless a longer period is provided by the board. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6027(g).**

(E) Upon its review of the record and the hearing officer's or panel's recommendations, the board shall determine whether the record is complete and whether the hearing should be adjourned. In the case of an appeal, unless otherwise agreed to by the parties, the board shall make a final decision within 20 days after the completion of deliberations by the board. (Amended, effective January 2, 1996.)

Rule 42. Stay of Decisions

No decision of the board or a district commission is automatically stayed by the filing of an appeal. Any party aggrieved by a final order of the board or a district commission may request a stay by written motion filed with the board identifying the order or portion thereof for which a stay is sought and stating in detail the grounds for the request.

In deciding whether to grant or deny a stay, the board may consider the hardship to parties, the impact, if any, on the values sought to be protected by Act 250, and any effect upon public health, safety or general welfare. The board may issue a stay containing such terms and conditions, including the filing of a bond or other security, as it deems just. The chair of the board may issue a preliminary stay which shall be effective for a period not to exceed 30 days. Any preliminary stay shall be reviewed by the board within that 30 day period. A party may file a motion to dissolve a preliminary stay within 10 days of issuance. (Added, effective August 21, 1986 and amended, effective January 2, 1996.)

Rule 43. Appeals to the Board Before Final Decision of District Commissions: Questions of Law and Party Status

(A) Motion for interlocutory appeal regarding all orders or rulings except those concerning party status. Upon motion of any party, the board may permit an appeal to be taken from any interlocutory (preliminary) order or ruling of a district